

**US Army Corps
of Engineers**
Louisville District ®

Public Notice

Public Notice No.
LRL-2007-816

Open Date:
3 Apr 2014

Close Date:
5 May 2014

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Ms. Kimberly J. Simpson, CELRL-OP-FS, Room 752
P.O. Box 59
Louisville, Kentucky 40201-0059

Phone: (502) 315-6691

This notice announces an application submitted for a Department of the Army (DA) Permit subject to Section 404 of the Clean Water Act:

APPLICANT: Kentucky Transportation Cabinet (KYTC)
200 Mero Street
Frankfort, Kentucky 40622

LOCATION: Wetlands and an ephemeral stream that flow to the Barren River located in Bristow approximately 7 miles northeast of Bowling Green on 31W and proceeding south for 3.8 miles connecting to I-65 in northeast Warren County, Kentucky

Latitude: 37.019887
Longitude: -86.322564
7.5 Minute Quad: Smith's Grove, Kentucky

PURPOSE: To provide a new route from 31W to I-65 to relieve congestion in a rapidly developing area of the county.

DESCRIPTION OF WORK: The applicant proposes to discharge fill material into 2.38 acres of "waters of the United States", including 10 emergent wetlands (1.811 acres), 3 ponds (0.563 acre), and one ephemeral stream (85.3 linear feet). The proposed impacts would occur due to the construction of the new roadway.

AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES: The applicant conducted a study of alternatives to address congestion in the area. Based on the studies conducted, the applicant determined that the proposed project is the only practicable alternative.

To compensate for unavoidable impacts to "waters of the United States," the applicant proposes to purchase credits from the Kentucky Department of Fish and Wildlife Stream and Wetland Restoration In-Lieu Fee Program. Monies paid to this program are used to undertake stream and wetland restoration projects in the vicinity of the proposed impacts.

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It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate mitigation, upon review of all submitted information.

REVIEW PROCEDURES: A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied. A DA permit, if otherwise warranted, will not be issued until a State of Kentucky Water Quality Certification or waiver is on file at this office. In order to comply with Section 401 of the Clean Water Act, the applicant must apply for State certification from the Kentucky Energy and Environment Cabinet Division of Water (KDOW).

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in accordance with the Fish and Wildlife Coordination Act of 1956. The applicant will account for potential adverse effects to the Indiana bat (*Myotis sodalists*) by contributing to the Indiana bat Conservation Fund through adherence to the September 6, 2012, Programmatic Indiana bat Conservation Memorandum of Agreement (MOA) between KYTC, Federal Highways Administration (FHWA), and the United States Fish and Wildlife Service (USFWS). Based on available information, the proposed activity will not destroy or endanger any other Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and therefore, initiation of formal consultation procedures with the USFWS is not planned at this time.

Under Section 106 of the National Historic Preservation Act, a MOA was executed for the proposed project between the Advisory Council on Historic Preservation (ACHP), the FHWA, the lead Federal Agency, and the Kentucky State Historic Preservation Office (SHPO) in 2009 to address impacts to cultural resources. With respect to other sites not currently listed on the Register, if we are made aware, as a result of comments received in response to this notice or by other means, of specific archaeological, scientific, prehistorical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966-Public Law 89-665 as amended (including Public Law 96-515).

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. A request for a public hearing must state the specific interest which might be damaged by issuance of the DA Permit.

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be

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balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the public. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines (40 CFR Part 230) promulgated by the Administrator, United States Environmental Protection Agency, under authority of Section 404(b) of the CWA.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. It is presumed that all interested parties and agencies will wish to respond; therefore, a lack of response will be interpreted as meaning that there is no objection to the proposed project. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written statements received in this office on or before the closing date will become a part of the official record and will be considered in the determination on this permit request. Any objections which are received during this period will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. Drawings are available on Louisville District's Internet site at <http://www.lrl.usace.army.mil/Missions/Regulatory.aspx>. All comments regarding this proposal should be addressed to Ms. Kimberly J. Simpson, CELRL-OP-FS at the address noted above and should refer to the Public Notice Number LRL-2007-816.

If you desire to submit your comments by email, you must comply with the following:

a) In the subject line of your email, type in **ONLY** the Public Notice ID No. LRL-2007-816.

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Example:

Subject: LRL-2007-816

b) Provide your physical mailing address and telephone number.

c) Send your email to: lrl.regulatorypubliccomment@usace.army.mil.

d) If you are sending attachments greater than 1 Mb in size with your email, you must send a hard copy (CD or paper) to the Corps' physical address as well.

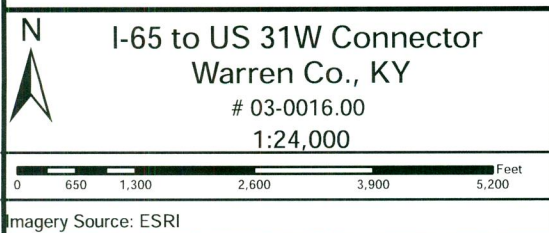
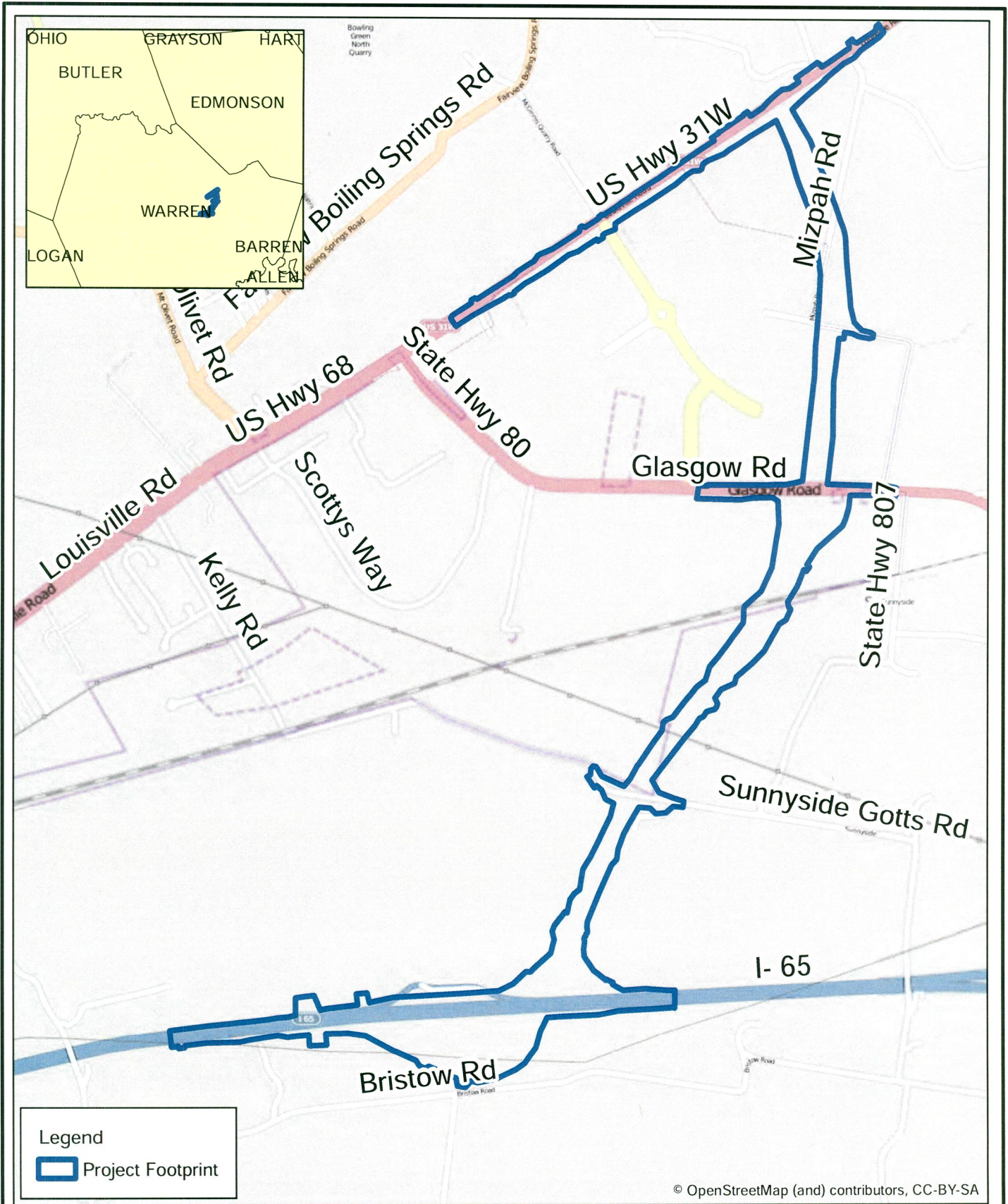


FIGURE 1 of 3

Project Location Map
Roads

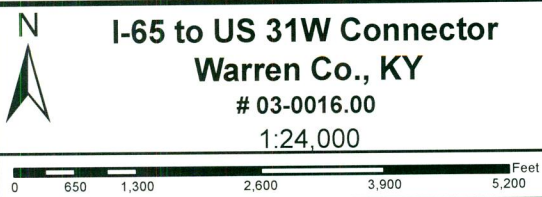
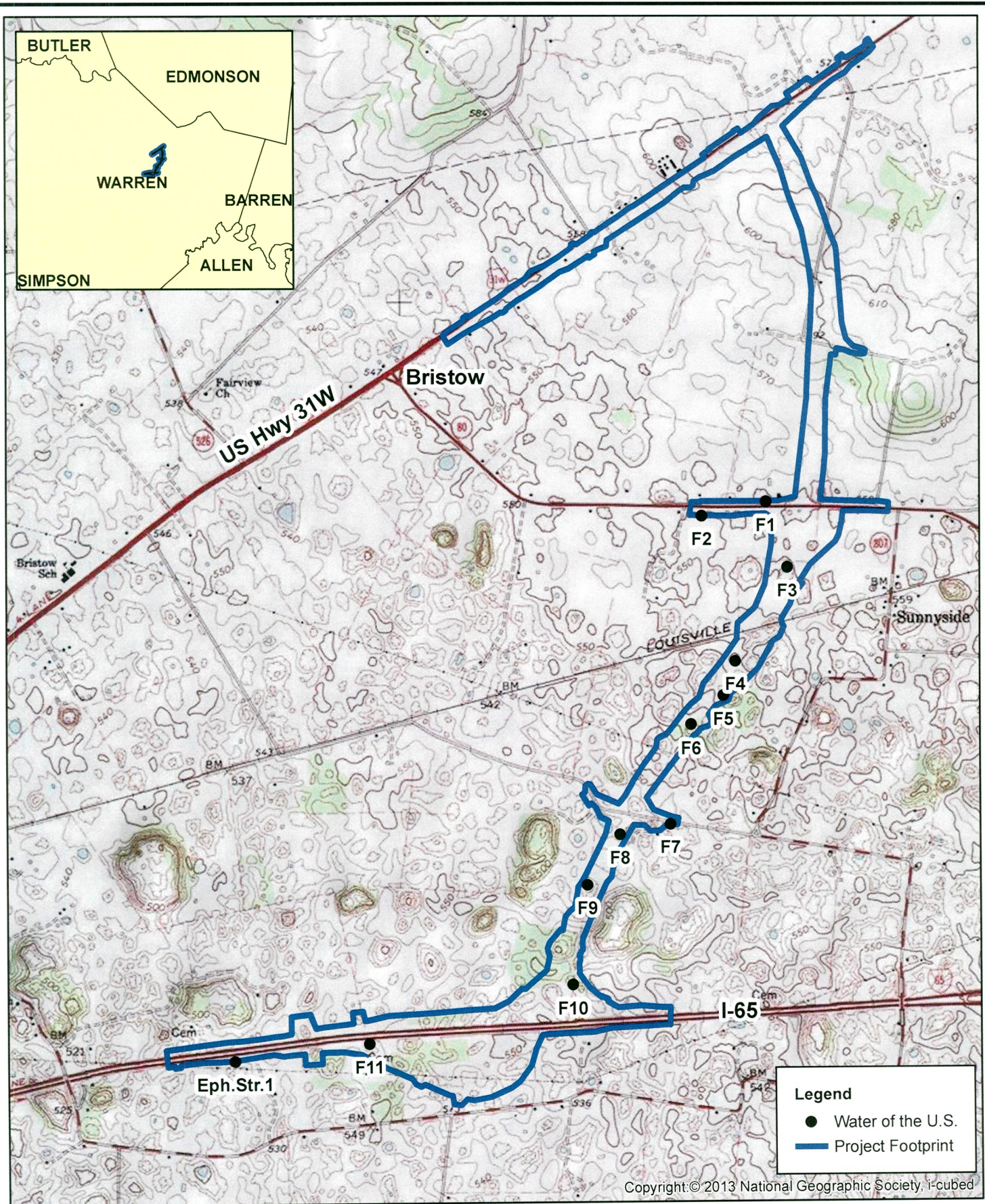
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Drawn by: ABO | Print Date: 10/3/13

Prepared For: KYTC

ETC File: LV2013001



PUBLIC NOTICE EXHIBIT 2 of 3

**Jurisdictional Features
Topographic Map**

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Proposed Impacts Table

Feature Name	Water Type	Acreage	Linear Feet
F1	Wetland	0.001	
F2	Pond	0.003	
F3	Wetland	0.43	
F4	Wetland	0.34	
F5	Wetland	0.22	
F6	Wetland	0.31	
F7	Wetland	0.02	
F8	Wetland	0.17	
F9	Pond	0.34	
F9	Wetland	0.05	
F10	Wetland	0.2	
F11	Pond	0.22	
F11	Wetland	0.07	
Ephemeral 1	Stream		85.3

Total Wetland = 1.811 acres

Total Pond = 0.563 acre

Total Stream = 85.3 linear feet

Figure 3 of 3

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